

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1526 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

YOGESHCHANDRA HIRALAL BHATT PROP. OF GAYATRI DECORATORS

Versus

AHMEDABAD MUNICIPAL CORPO.

Appearance:

1. Special Civil Application No. 1526 of 2001
MR SURESH M SHAH for Petitioner No. 1
MR MEHUL S SHAH for Petitioner No. 1
MR MG NAGARKAR for Respondent No. 1
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 02/04/2002

ORAL JUDGEMENT

Rule. Mr MG Nagarkar, learned counsel for the Ahmedabad Municipal Corporation waives service of Rule. In the facts and circumstances of the case, the petition is taken up for final disposal today.

2. In this petition under Article 226 of the Constitution, the petitioner challenges the deletion of his name from the column of occupier in the assessment book and the records of the respondent-Corporation in respect of the premises being shop/godown bearing survey No. 00155-156/3/5/1 in Maninagar 4D ward.

3. The petitioner has relied on the municipal property tax bill (page 17 of the paper book) issued by the respondent-Corporation for year 1998-99 wherein the owner's name is shown as Chhotabhai Jijibhai Patel and the occupier's name is shown as Yogeshchandra Hiralal. The petitioner has also relied on a copy of the extract of the demand register of the respondent-Corporation in respect of the said premises, which is at Annexure "B" (page 18), which is also for the same year i.e. 1998-99. The petitioner's grievance in this petition is that for the subsequent years i.e. for the years 1999-2000 onwards the petitioner is not given any property tax bill and the petitioner's name is deleted from the demand register and the municipality record.

4. Mr Nagarkar, learned counsel appearing for the respondent-Corporation confirms the fact that the petitioner's name has been deleted from the relevant record in respect of the above numbered property. Mr Nagarkar is also not in a position to dispute that the petitioner was not given any opportunity of being heard before the said decision was taken.

5. In view of the fact that the deletion of the petitioner's name from the assessment register and the relevant record of the respondent-Corporation has adverse civil consequences on the petitioner, such a decision for deleting the petitioner's name from the records could not have been taken without giving the petitioner an opportunity of being heard. In view of the breach of the principle of natural justice and the prejudice being caused to the petitioner thereby, the impugned deletion of the petitioner's name from the relevant record in respect of the aforesaid property is required to be quashed and set aside with liberty to the respondent to take appropriate decision in accordance with law after giving the petitioner a reasonable opportunity of being heard.

6. In view of the above discussion, the petition is allowed. The impugned decision of the respondent-Corporation deleting the petitioner's name from the assessment register and the demand register in respect of the property bearing survey No.

00155-156/3/5/1 in Maninagar 4D ward is hereby quashed and set aside. However, the respondent Corporation is at liberty to take a fresh decision in accordance with law after giving the petitioner a reasonable opportunity of being heard within two months from the date of receipt of the writ of this Court.

7. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)

sundar/-